

Appl. No. 10/811,256
Docket No. 9587
Response dated July 18, 2007
Reply to Office Action mailed on July 11, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 20 are pending in the present application. No additional claims fee is believed to be due.

Response to Election of Species Requirement

The Examiner has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. The Examiner indicates that claim 1, 11-14, 19 and 20 are generic to the following disclosed species: vitamins, amino acids, minerals, phytochemicals, carotenoids, pharmaceuticals, salts, nutrients, physiological active agents, and mixtures thereof. Applicants traverse this requirement.

The traversal of the indicated election requirement is requested as it is considered improperly made. In particular the restriction is traversed as applied to Claim 1. The statement of the Examiner that claims 1, 11-14, 19 and 20 are generic to the described list of materials is incorrect. It is clear that Claim 1 has nothing to do with the described list of ingestible substrates. Claim 1 relates only to a coating agent comprising sterol and solvent. The ingestible substrate does not become a limitation until dependent Claim 11. Therefore, Applicants submit that the election of species requirement should be withdrawn as applied to Claim 1.

The election of species requirement is also traversed as applied to Claim 11-14. Dependent Claims 11-14 are selected coated substrates comprising the coating agent as defined in Claims 1, 4 or 8. The coated substrates of claims 11-14 all comprise the coating agent of the present invention. Applicants submit that prosecuting dependent claims 11-14 having an unrestricted group of ingestible substrate, does not add substantial examination and search burden over examination and search requirements needed to examine Claims 1-10. For example, if Claim 1 is examined and found allowable, no additional search or examination would be required of the Examiner to examine claims 11-14. Therefore, a sufficient showing of independence has not been shown and therefore, Applicants submit that the election requirement as applied to Claims 11-14 is improper and should be withdrawn.

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The election of species requirement is also traversed as applied by the Examiner to Claims 19 and 20. Claims 19 to 20 are related to coated substrates comprising specific ingestible coatings comprising some or all of the limitations previously presented in Claim 15 through 18, which are all dependent back to the Claim 1 coating agent. Again, Applicants submit that prosecuting claims 19 and 20 having an unrestricted group of ingestible substrate, does not add substantial examination and search burden over examination and search requirements needed to examine Claims 1-10. Therefore, a sufficient showing of independence has not been shown and therefore, Applicants submit that the election requirement as applied to Claims 19 and 20 is improper and should be withdrawn.

Pursuant to this traversed election of species requirement, Applicants hereby provisionally elect to prosecute Claims 11-20, if necessary, where the ingestible substrate are vitamins. Claims 11-20 encompass this election. As discussed above, this election is made with traverse.

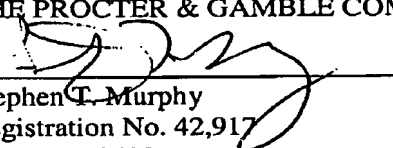
Conclusion

This response represents an earnest effort to place the present application in proper form. In view of the foregoing, withdrawal of the election of species requirement, examination and consideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

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